



June 27 2006

The Honorable Joe Hune
Chair, Insurance Committee
State Capitol
896 North House Office Building
Lansing MI 48909

Dear Representative Hune:

Thank you for the opportunity to set out AARP's concerns regarding SB880. Generally, we oppose the bill in concept. Our policy for variable annuities is to regulate them as securities products. We support the adoption of the Uniform Securities Act in a form that treats variable annuities as securities.

We offer the following objections regarding SB880:

1. This regulation contains no private right of action.
2. Though it mandates compliance by agents or insurers with the NASD Conduct Rules (2004) regarding recommendations regarding variable annuities, the sellers of the annuities are not licensed and registered as securities dealers.
3. The burden of proof is entirely on the senior consumer to provide all necessary information to the seller of the product, whose recommendation will be judged based on the content of that information. It appears that there is no liability for the seller for recommendations made in the absence of information that should have been solicited by the seller.
4. Commissions earned by sellers of annuity products are very high, particularly in light of the downside risks to consumers who may well die before getting a payout, and who will pay high penalties that eat into capital if they borrow from the fund in advance of maturity. On the face of this regulation, there is no requirement that the seller disclose the amount of these commissions or penalties, unless this is contained in the Rules of Conduct.
5. Sanctions against sellers who violate what appear to be nebulous suitability requirements are discretionary with the Department of Insurance. This is not a sufficient deterrent to fraud. There are no penalties in this bill. There is no third party verification in this bill.
6. Supervision of these accounts can be delegated to third parties with questionable credentials. Where the account is not farmed out, agents or insurers are given the latitude to develop their own oversight procedures with overly broad parameters in light of the risk factor involved with these products.

7. Records are kept for 5 years of information received from the consumer and elsewhere that formed the basis of the recommendation to purchase the annuity. There is no specific requirement for documenting the recommendation itself; nor is there a requirement that insurers keep documentation on behalf of agents.

This regulation provides more protection to insurers than it does to consumers. Furthermore, it is under the jurisdiction of the wrong department. Annuities, particularly variable annuities are in need of regulatory scrutiny but this proposal falls short of what is needed.

The Governor's Task Force on Elder Abuse agrees with AARP's stance on the bill. It unanimously approved a recommendation to define variable annuities as securities, and to endorse the passage of the Uniform Securities Act in Michigan. There is not enough in insurance law to shield senior citizens from unsuitable annuity sales. The existing regulations law especially lack suitability and disclosure requirements.

Thank you for the opportunity to comment on the bill. AARP appreciates being included in the work group meetings and your interest in the above mentioned concerns.

Sincerely,



Anita Salustro
Associate State Director
AARP/Michigan
asalustro@aarp.org
(517) 267-8913
309 North Washington Square
Lansing MI 48933